



**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0128/lins
MDK:.....

INSERT 1-10:

SECTION 1. 20.155 (1) (title) of the statutes is amended to read:

20.155 (1) (title) REGULATION OF PUBLIC UTILITIES AND VIDEO SERVICE FRANCHISEES.

History: 1971 c. 125; 1973 c. 90; 1975 c. 39; 1977 c. 29; 1979 c. 34; 1981 c. 20; 1985 a. 79, 296, 297, 332; 1987 a. 27, 399; 1991 a. 39, 269; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27, 140, 229; 1999 a. 9, 32, 84, 150, 196; 2001 a. 16, 30; 2003 a. 48; 2005 a. 179.

SECTION 2. 20.155 (1) (g) of the statutes is amended to read:

20.155 (1) (g) *Utility and video service regulation.* The amounts in the schedule for the regulation of utilities and video service franchisees. Ninety percent of all moneys received by the commission under s. 196.85, 196.855, or 201.10 (3) shall be credited to this appropriation. Ninety percent of all receipts from the sale of miscellaneous printed reports and other copied material, the cost of which was originally paid under this paragraph, shall be credited to this appropriation.

History: 1971 c. 125; 1973 c. 90; 1975 c. 39; 1977 c. 29; 1979 c. 34; 1981 c. 20; 1985 a. 79, 296, 297, 332; 1987 a. 27, 399; 1991 a. 39, 269; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27, 140, 229; 1999 a. 9, 32, 84, 150, 196; 2001 a. 16, 30; 2003 a. 48; 2005 a. 179.

SECTION 3. 20.155 (4) of the statutes is created to read:

20.155 (4) **BROADBAND GRANT PROGRAM.** (g) *Grants.* All moneys received under s. 66.0420 (9) (h) 1. for the purpose of making grants under s. 66.0420 (9) (h) 2.

INSERT 10-8:

A municipality is not required to grant a permit under s. 182.017 (1) to install or construct facilities to provide video service to a person that has not been issued a video service franchise or a cable franchise.

INSERT 10-12:

Upon expiration of the incumbent cable operator's cable franchise,

INSERT 10-14:

At any time prior to expiration of the incumbent cable operator's cable franchise,

INSERT 11-21:

1 comply with any requirements of the municipality that granted the franchise that
2 require the incumbent cable operator to provide access to video service and that are
3 in effect on the effective date of this subdivision [revisor inserts date].

4 **INSERT 12-3:**

5 For purposes of 47 USC 521 to 573,

6 **INSERT 12-4:**

7 and municipalities are the exclusive franchising authorities for municipally
8 regulated cable operators. The commission may not impose franchising
9 requirements on municipally regulated cable operators and municipalities may not
10 impose franchising requirements on video service franchisees.

11 **INSERT 13-9:**

12 Telephone service exchange areas.

13 **INSERT 15-9:**

14 any of the following:

15 1. Information regarding the specific locations where access to video service is
16 offered or available.

17 **INSERT 16-9:**

18 The successor in interest may not provide video service unless the successor in
19 interest applies for, and is issued, a video service franchise under this subsection.

20 The commission may not issue a video service franchise to the successor in interest
21 if any of the following apply:

22 **INSERT 17-4:**

23 that transferred the video service franchise to the successor in interest

24 **INSERT 18-12:**

b. The termination or modification is based on the race or income of the residents in the local area in which the residents reside. ✓

INSERT 19-6:

or ^{than} the date on which the video service franchisee begins to provide video service in the municipality, whichever is later

INSERT 23-3:

between a video service franchisee and incumbent cable operator

INSERT 23-9:

deadline for taking action required under par. (a) ^{1.} that is specified in par. (a) ^{1.} (intro.)

INSERT 23-11:

,or the municipality's PEG channel manager,
△

INSERT 24-7:

A person that produces programming for broadcast on a PEG channel

INSERT 25-1:

A municipality that requires a municipally regulated cable operator to comply with emergency alert system message or service requirements that are in addition to the requirements imposed under this subsection may impose such additional requirements on a video service franchisee that provides video service within the municipality. ✓

INSERT 29-10:

The video service franchise fee shall equal one of the following percentages of the video service franchisee's gross revenues, whichever is less:

a. Five percent.

1 b. The percentage of revenues that the municipality required, on the effective
2 date of this subd. 1. b. [revisor inserts date], an incumbent cable operator to pay
3 as a franchise fee under s. 66.0419 (3) (c). ✓

4 **INSERT 31-9:**

5 PEG support fees are first due for the quarter that includes the 90th day after a
6 municipality requests payment of the fees ^efor the date on which the video service
7 franchisee begins to provide video service in the municipality, whichever is later.

8 **INSERT 31-14:** ✓

9 or the monetary payments for PEG channels required under sub. (3) (b) 2. b

10 **INSERT 32-10:**

11 providing video service in the municipality on the effective date of this paragraph
12 [revisor inserts date]. If there are no such incumbent cable operators, the
13 municipality may impose reasonable audit requirements. ✓

14 **INSERT 33-4:** ✓

15 (9) DISCRIMINATION; ACCESS TO SERVICES. (a) *Definitions*. In this subsection:

16 1. ^{e Basic} ~~Basis~~ local exchange service area" means the area on file with the
17 commission in which a large telecommunications video service franchisee provides
18 basic local exchange service, as defined in s. 196.01 (1g). ✓

19 2. "Department" means the department of agriculture, trade and consumer
20 protection.

21 3. "Large telecommunications video service franchisee" means any of the
22 following:

23 a. A video service franchisee that is a telecommunications ^{video} service provider and
24 that, on January 1, 2007, had more than 500,000 basic local exchange access lines
25 in this state.

1 b. An affiliate of a video service franchisee described under subd. 3. a.

2 4. "Telecommunications video service provider" means a person that uses
3 facilities for providing telecommunications service, as defined in s. 196.01 (9m), also
4 to provide video service.

5 (b) *Access determination.* For purposes of this subsection, a video service
6 franchisee provides access to its video service to a household if the video service
7 franchisee is capable of providing video service at the household address using any
8 technology, other than direct-to-home satellite service, that provides two-way
9 broadband Internet capability, and video programming, content, and functionality
10 which are demonstrably similar to video programming, content, and functionality
11 provided through the video service franchisee's video service system, regardless of
12 whether any customer at the household address has ordered service or whether the
13 owner or landlord or other responsible person has granted access to the household
14 address. If more than one technology is used, access is provided only if the
15 technologies provide similar two-way broadband Internet capability and similar
16 video programming.

17 (c) *Discrimination prohibited.* 1. No video service franchisee may deny access
18 to video service to any group of potential residential customers in the video service
19 franchisee's video service area because of the race or income of the residents in the
20 local area in which the group resides.

21 2. It is a defense to an alleged violation of subd. 1. based on income if the video
22 service franchisee has met either of the following conditions:

23 a. No later than 3 years after the date on which the video service franchisee
24 began providing video service under this section, at least 25 percent of households

1 with access to the video service franchisee's video service are low-income
2 households.

3 b. No later than 5 years after the date on which the video service franchisee
4 began providing video service under this section, at least 30 percent of the
5 households with access to the video service franchisee's video service are low-income
6 households.

7 (d) *Access requirements.* 1. A large telecommunications video service
8 franchisee shall provide access to its video service to the following percentages of
9 households within the large telecommunications video service franchisee's basic
10 local exchange service area:

11 a. Not less than 35 percent no later than 3 years after the date on which the
12 large telecommunications video service franchisee began providing video service
13 under this section.

14 b. Not less than 50 percent no later than 5 years after the date on which the
15 large telecommunications video service franchisee began providing video service
16 under this section, or no later than 2 years after at least 30 percent of households
17 with access to the large telecommunications video service franchisee's video service
18 subscribe to the service for 6 consecutive months, whichever occurs later.

19 2. A large telecommunications video service franchisee shall file an annual
20 report with the department regarding the large telecommunications video service
21 franchisee's progress in complying with subd. 1.

22 (e) *Extensions and waivers.* A video service franchisee may apply to the
23 department for an extension of any time limit specified in par. (c) 2. or (d) or a waiver
24 of a requirement to comply with par. (d). The department shall grant the extension
25 or waiver if the video service franchisee demonstrates to the satisfaction of the

department that the video service franchisee has made substantial and continuous efforts to comply with the requirements of this subsection and that the extension or waiver is necessary due to one or more of the following factors:

1. The video service franchisee's inability to obtain access to public and private rights-of-way under reasonable terms and conditions.

2. Developments and buildings that are not subject to competition because of exclusive service arrangements.

3. Developments and buildings that are not accessible using reasonable technical solutions under commercially reasonable terms and conditions.

4. Natural disasters.

5. Other factors beyond the control of the video service franchisee.

(f) *Alternative technologies.* A video service franchisee may satisfy the requirements of this subsection through the use of an alternative technology, other than satellite service, but only if the alternative technology provides access to PEG channels and messages broadcast over the emergency alert system.

(g) *Limitations.* Notwithstanding any other provision of this section, a telecommunications video service provider is not required to provide video service outside the provider's basic local exchange service area, and a video service franchisee that is an incumbent cable operator is not required to provide video service outside the area in which the incumbent cable operator provided cable service at the time the commission issued a video service franchise to the incumbent cable operator.

(h) *Broadband service.* 1. If a large telecommunications video service franchisee does not provide access to broadband service to 90 percent of the households in the large telecommunications video service franchisee's telecommunications service

1 area by the first day of the 18th month beginning after the effective date of this
2 subdivision [revisor inserts date], the large telecommunications video service
3 franchisee shall pay to the commission, no later than the first day of the 19th month
4 beginning after the effective date of this subdivision [revisor inserts date], a sum
5 of \$7,500,000.

6 2. If a large telecommunications video service franchisee pays the sum to the
7 commission under subd. 1., the commission shall use that sum to make grants to
8 persons to assist in the deployment of broadband service to underserved areas in this
9 state. The commission shall promulgate rules establishing requirements and
10 procedures for making the grants.

11 **INSERT 42-6:**

12 , except sub. (9) (c) or (d),

13 **INSERT 42-8:**

14 except sub. (9) (c) or (d), the commission

15 **INSERT 42-11:**

16 , except sub. (9) (c) or (d)

17 **INSERT 44-4: SEE ATTACHMENT FROM ENGROSSED AB 207**

18 **INSERT 44-8:**

19 (b) "Cable or video provider" means a municipally regulated cable operator or
20 a video service franchisee. ✓

21 **INSERT 45-1:**

22 (d) "Municipally regulated cable operator" has the meaning given in s. 66.0420
23 (2) (o). ✓

24 **INSERT 45-16:**

(i) "Video programming provider" means multichannel video programming distributor, as defined in 47 USC 522 (13), but does not include a landlord whose provision of video service is limited to providing video service to a single-family home or other residential dwelling consisting of 4 units or less.

(j) "Video service" means multiple channels of video programming, as defined in 47 USC 522 (20).

(k) "Video service area" has the meaning given in s. 66.0420 (2) (w).

(L) "Video service franchisee" has the meaning given in s. 66.0420 (2) (y).

(m) "Video service network" has the meaning given in s. 66.0420 (2) (z).

INSERT 48-8:

in which the video programming provider provides video service and that is

INSERT 53-18:

in which the unsafe condition exists,

INSERT 54-20:

service interruptions and other service problems

INSERT 54-21:

and other service problems are

INSERT 56-1:

one of the following:

a. If the cable or video provider is a municipally regulated cable operator, the municipality that grants a cable franchise to the cable or video provider.

b. If the cable or video provider is a video service franchisee, the video service area of the cable or video provider.

INSERT 56-5:

1 video service networks are located in a manner that is capable of providing video
2 service to

3 **INSERT 56-9:**

4 video service networks are located in a manner that is capable of providing video
5 service to

6 **INSERT 57-6:**

7 in which the video programming provider provides video service ✓

8 **INSERT 57-7:**

9 The report shall include documentation that is sufficient to demonstrate compliance
10 with subs. (9) (e) and (f) and (10) (a) and (b). ✓

11 **INSERT 57-16:**

12 Information in the report under par. (a) shall be broken down for each municipality
13 or telephone service exchange area in which the cable or video provider has
14 customers.

15 (c) The report under par. (a) is first due one year after a video programming
16 provider begins to offer video service or on the first day of the 12th month beginning
17 after the effective date of this paragraph [revisor inserts date], whichever is later.

18 **INSERT 59-9:**

19 If a contract or service offering is made for a specified term at a discounted price, no
20 termination fee may exceed the amount of the discount from which the customer
21 benefited.

22 **INSERT 60-5:**

23 in determining whether to transmit programming

24 **INSERT 61-2:**

25 requested by the customer Ⓞ

INSERT 64-5:

, except that a municipality may bring an action only if a customer residing in the municipality is adversely affected by the violation and a customer may bring an action only if the customer is adversely affected by the violation

INSERT 65-23:

against requiring subscription to other services as a condition of access to video service ✓

INSERT 66-19: SEE ATTACHMENT FROM ENGROSSED AB 207

INSERT 42-13 TO INSERT 66-19:

SECTION 4. 196.01 (12m) of the statutes is created to read:

196.01 (12m) "Video service franchisee" has the meaning given in s. 66.0420 (2) (y). ✓

INSERT 45-8 TO INSERT 66-19:

SECTION 5. 196.44 (1) of the statutes is amended to read:

196.44 (1) DUTY OF COMMISSION. The commission shall inquire into the neglect or violation of the laws of this state by public utilities and of s. 66.0420, except for s. 66.0420 (9) (c) and (d), by video service franchisees, or by their officers, agents or employees or by persons operating public utilities or video service franchisees, and shall enforce all laws relating to public utilities, and report all violations to the attorney general.

History: Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1977 c. 29 ss. 1337, 1654 (10) (c), 1656 (43); 1977 c. 272; Stats. 1977 s. 196.44; 1981 c. 390 s. 252; 1983 a. 53; 1993 a. 496; 1997 a. 218; 1999 a. 9; 2001 a. 105.

SECTION 6. 196.44 (2) of the statutes is amended to read:

196.44 (2) DUTIES OF ATTORNEY GENERAL AND DISTRICT ATTORNEYS. Upon request of the commission, the attorney general or the district attorney of the proper county shall aid in any investigation, hearing or trial had under this chapter, and shall

- 1 institute and prosecute all necessary actions or proceedings for the enforcement of
- 2 s. 66.0420, except for s. 66.0420 (9) (c) and (d), and all laws relating to public utilities
- 3 or telecommunications providers, and for the punishment of all violations.

History: Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1977 c. 29 ss. 1337, 1654 (10) (c), 1656 (43); 1977 c. 272; Stats. 1977 s. 196.44; 1981 c. 390 s. 252; 1983 a. 53; 1993 a. 496; 1997 a. 218; 1999 a. 9; 2001 a. 105.

- 4 **INSERT 67-2: SEE ATTACHMENT FROM ENGROSSED AB 207**

ENGROSSED ASSEMBLY BILL 207

INSERT 44-4 (cont'd):

1 70.111 (25) DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment
2 owned and used by a radio station, television station, or ~~cable television system~~ video
3 service network, as defined in s. 66.0419 (2) (d) 66.0420 (2) (b). z

4 SECTION 24. 76.80 (3) of the statutes is amended to read:

5 76.80 (3) "Telecommunications services" means the transmission of voice,
6 video, facsimile or data messages, including telegraph messages, except that
7 "telecommunications services" does not include ~~cable television video service~~, as
8 defined in s. 66.0420 (2) (y), radio, one-way radio paging or transmitting messages
9 incidental to transient occupancy in hotels, as defined in s. 254.61 (3).

10 SECTION 25. 77.52 (2) (a) 12. of the statutes is amended to read: v

11 77.52 (2) (a) 12. The sale of cable television system services, or video services,
12 as defined in s. 66.0420 (2) (y), including installation charges.

13 SECTION 26. 100.195 (1) (c) 2. of the statutes, as created by 2005 Wisconsin Act
14 458, is amended to read:

15 100.195 (1) (c) 2. Telecommunications services or ~~cable television~~ services.

16 SECTION 27. 100.195 (1) (h) 1. of the statutes, as created by 2005 Wisconsin Act
17 458, is repealed and recreated to read: v

18 100.195 (1) (h) 1. Video service, as defined in s. 66.0420 (2) (y).

19 SECTION 27d. 100.209 (title) of the statutes is amended to read:

20 100.209 (title) ~~Cable television~~ Video programming service subscriber
21 rights.

22 SECTION 27h. 100.209 (1) (a) and (b) of the statutes are repealed.

23 SECTION 27k. 100.209 (1) (c) and (d) of the statutes are created to read:

END OF INSERT
44-4

ENGROSSED ASSEMBLY BILL 207**SECTION 8**

department of agriculture, trade and consumer protection may not promulgate rules interpreting or establishing procedures for sub. (8).

(b) Except as provided in sub. (7) (e), a municipality, interim cable operator, or video service provider that is affected by a failure to comply with this section may bring an action to enforce this section. If a court finds that a municipality, interim cable operator, or video service provider has not complied with this section, the court shall order the municipality, interim cable operator, or video service provider to comply with this section. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in an action under this paragraph to any party.

(c) The department shall enforce this section, except sub. (8). The department may bring an action to recover any fees that are due and owing under this section or to enjoin a violation of this section, except sub. (8), or any rule promulgated under sub. (3) (f) 4. An action shall be commenced under this paragraph within 3 years after the occurrence of the unlawful act or practice or be barred.

SECTION 9. 66.0421 (title) of the statutes is amended to read:

66.0421 (title) Access to cable video service.

SECTION 10. 66.0421 (1) (a) of the statutes is repealed.

SECTION 11. 66.0421 (1) (b) of the statutes is repealed.

SECTION 12. 66.0421 (1) (c) of the statutes is created to read:

66.0421 (1) (c) "Video service" has the meaning given in s. 66.0420 (2) (f).

SECTION 13. 66.0421 (1) (d) of the statutes is created to read:

66.0421 (1) (d) "Video service provider" has the meaning given in s. 66.0420 (2) (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

SECTION 14. 66.0421 (2) of the statutes is amended to read:

means a municipally regulated cable operator, as defined in s. 66.0420(2)(o), or a video service franchisee, as defined in s. 66.0420(2)(y).

ENGROSSED ASSEMBLY BILL 207

IN SEAT 44-4
(Cont'd):

1 66.0421 (2) INTERFERENCE PROHIBITED. The owner or manager of a multiunit
2 dwelling under common ownership, control or management or of a mobile home park
3 or the association or board of directors of a condominium may not prevent a cable
4 operator video service provider from providing cable video service to a subscriber who
5 is a resident of the multiunit dwelling, mobile home park or of the condominium or
6 interfere with a cable operator video service provider providing cable video service
7 to a subscriber who is a resident of the multiunit dwelling, mobile home park or of
8 the condominium.

9 **SECTION 15.** 66.0421 (3) of the statutes is amended to read:

10 66.0421 (3) INSTALLATION IN MULTIUNIT BUILDING. Before installation, a cable
11 operator video service provider shall consult with the owner or manager of a
12 multiunit dwelling or with the association or board of directors of a condominium to
13 establish the points of attachment to the building and the methods of wiring. A cable
14 operator video service provider shall install facilities to provide cable video service
15 in a safe and orderly manner and in a manner designed to minimize adverse effects
16 to the aesthetics of the multiunit dwelling or condominium. Facilities installed to
17 provide cable video service may not impair public safety, damage fire protection
18 systems or impair fire-resistive construction or components of a multiunit dwelling
19 or condominium.

20 **SECTION 16.** 66.0421 (4) of the statutes is amended to read:

21 66.0421 (4) REPAIR RESPONSIBILITY. A cable operator video service provider is
22 responsible for any repairs to a building required because of the construction,
23 installation, disconnection or servicing of facilities to provide cable video service.

✓ 24 **SECTION 17.** 66.0422 (title) of the statutes is amended to read:

ENGROSSED ASSEMBLY BILL 207

SECTION 17

INSEAT 44-4
(cont'd):

1 **66.0422** (title) ~~Cable television~~ Video service, telecommunications, and
2 **broadband facilities.**

3 **SECTION 18.** 66.0422 (1) (a) of the statutes is repealed.

4 **SECTION 19.** 66.0422 (1) (d) of the statutes is created to read:

5 66.0422 (1) (d) "Video service" has the meaning given in s. 66.0420 (2) (✓).

6 **SECTION 20.** 66.0422 (2) (intro.) of the statutes is amended to read:

7 66.0422 (2) (intro.) Except as provided in subs. (3), (3d), (3m), and (3n), no local
8 government may enact an ordinance or adopt a resolution authorizing the local
9 government to construct, own, or operate any facility for providing cable video
10 service, telecommunications service, or broadband service, directly or indirectly, to
11 the public, unless all of the following are satisfied:

12 **SECTION 21.** 66.0422 (3) (b) of the statutes is amended to read:

13 66.0422 (3) (b) A majority of the governing board of the local government votes
14 to submit the question of supporting the operation of the facility for providing cable
15 video service, telecommunications service, or Internet access service, directly or
16 indirectly to the public, by the local government to the electors in an advisory
17 referendum and a majority of the voters in the local government voting at the
18 advisory referendum vote to support operation of such a facility by the local
19 government.

20 **SECTION 22.** 66.0422 (3n) of the statutes is amended to read:

21 66.0422 (3n) Subsection (2) does not apply to a local government that, on March
22 1, 2004, was providing cable video service to the public.

23 **SECTION 23.** 70.111 (25) of the statutes is amended to read:

ENGROSSED ASSEMBLY BILL 207

IN SEAT 66-19:

1 (c) A municipal regulation is unreasonable if it requires a company to be
2 responsible for fees under s. 182.0175 (1m) (bm) that may be assessed to a
3 municipality as a member of the one-call system under s. 182.0175.

4 (d) It is reasonable for a municipal regulation to provide for the recovery of costs
5 incurred under par. (b) 1., 2., 3, and 7. through a preexcavation permit fee.

6 (e) It is reasonable for a municipal regulation to provide for the recovery of costs
7 incurred under par. (b) 4., 5., and 6. only from the company that is responsible for
8 causing the municipality to incur the costs.

9 **SECTION 36.** 182.017 (9) of the statutes is created to read:

10 182.017 (9) TIME LIMIT FOR PERMITS. If a municipality establishes a permit
11 process under sub. (1r), the municipality shall approve or deny a permit application
12 no later than 60 days after receipt of the application, and, if the municipality fails
13 to do so, the municipality shall be considered to have approved the application and
14 granted the permit. If a municipality denies a permit application, the municipality
15 shall provide the applicant a written explanation of the reasons for the denial at the
16 time that the municipality denies the application.

✓ 17 **SECTION 37.** 196.01 (1g) of the statutes is amended to read:

18 196.01 (1g) "Basic local exchange service" means the provision to residential
19 customers of an access facility, whether by wire, cable, fiber optics or radio, and
20 essential usage within a local calling area for the transmission of high-quality
21 2-way interactive switched voice or data communication. "Basic local exchange
22 service" includes extended community calling and extended area service. "Basic
23 local exchange service" does not include additional access facilities or any
24 discretionary or optional services that may be provided to a residential customer.

ENGROSSED ASSEMBLY BILL 207

SECTION 37

INSERT 66-19
(Cont'd):

1 "Basic local exchange service" does not include cable television service or services
2 provided by a commercial mobile radio service provider.

INSERT 42-13

3 **SECTION 38.** 196.01 (1p) of the statutes is repealed and recreated to read:

4 196.01 **(1p)** "Cable service" has the meaning given in 47 USC 522 (6).

5 **SECTION 39.** 196.01 (9m) of the statutes is amended to read:

6 196.01 **(9m)** "Telecommunications service" means the offering for sale of the
7 conveyance of voice, data or other information at any frequency over any part of the
8 electromagnetic spectrum, including the sale of service for collection, storage,
9 forwarding, switching and delivery incidental to such communication and including
10 the regulated sale of customer premises equipment. "Telecommunications service"
11 does not include cable television service or broadcast service.

12 **SECTION 40.** 196.01 (12g) of the statutes is created to read:

13 196.01 **(12g)** "Video service" has the meaning given in s. 66.0420 (2) (y). ✓

14 **SECTION 41.** 196.01 (12r) of the statutes is created to read:

15 196.01 **(12r)** "Video service provider" ~~has the meaning given in s. 66.0420 (2)~~
16 ~~(zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).~~

17 ✓ **SECTION 42.** 196.04 (4) (a) (intro.) and 2. (intro.) of the statutes are
18 consolidated, renumbered 196.04 (4) (a) (intro.) and amended to read:

19 196.04 **(4)** (a) (intro.) In this subsection: ~~2. "Sewerage, "sewerage~~ system
20 operator" means any of the following:

21 **SECTION 43.** 196.04 (4) (a) 1. of the statutes is repealed.

22 **SECTION 44.** 196.04 (4) (a) 2. a. to e. of the statutes are renumbered 196.04 (4)
23 (a) 1. to 5.

24 **SECTION 45.** 196.04 (4) (b) of the statutes is amended to read:

(2)
means a municipally regulated cable operator, as defined in
s. 66.0420 (2) (y), or a video service franchisee as defined in s. 66.0420 (2) (y).

ENGROSSED ASSEMBLY BILL 207

INSERT 06-19 (cont'd).

1 196.04 (4) (b) If the parties cannot agree and the commission finds that public
2 convenience and necessity or the rendition of reasonably adequate service to the
3 public requires that a public utility, telecommunications provider, sewerage system
4 operator, or ~~cable operator~~ video service provider be permitted to extend its lines on,
5 over or under the right-of-way of any railroad, or requires that the tracks of any
6 railroad be extended on, over or under the right-of-way of any public utility,
7 telecommunications provider, sewerage system operator, or ~~cable operator~~ video
8 service provider, the commission may order the extension by the public utility,
9 telecommunications provider, sewerage system operator, ~~cable operator~~ video
10 service provider, or railroad on, over or under the right-of-way of the other if it will
11 not materially impair the ability of the railroad, telecommunications provider,
12 sewerage system operator, ~~cable operator~~ video service provider, or public utility, on,
13 over or under whose right-of-way the extension would be made, to serve the public.
14 The commission shall prescribe lawful conditions and compensation which the
15 commission deems equitable and reasonable in light of all the circumstances.

16 ✓ **SECTION 46.** 196.195 (5) of the statutes is amended to read:

17 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
18 (4) the commission has determined that effective competition exists in the market
19 for the telecommunications service which justifies a lesser degree of regulation and
20 that lesser regulation in that market will serve the public interest, the commission
21 may, by order, suspend any of the following provisions of law, except as provided
22 under subs. (7) and (8): ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s.
23 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s.
24 196.194; s. 196.196 (1) or (5); s. 196.20; ~~s. 196.204 (7)~~; s. 196.21; s. 196.22; s. 196.26;

ENGROSSED ASSEMBLY BILL 207

SECTION 46

INSERT 66-19 (cont'd):

1 s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.
2 196.78; s. 196.79; and s. 196.805.

3 ✓ **SECTION 47.** 196.203 (1m) of the statutes is amended to read:

4 196.203 **(1m)** Any person claiming to be a cable television telecommunications
5 service provider under this section shall annually file with the commission any
6 information required by the commission to determine the gross income of the person
7 which is derived from the operation of a cable television system.

8 **SECTION 48.** 196.203 (3) (b) (intro.) of the statutes is amended to read:

9 196.203 **(3)** (b) (intro.) The commission may not deny a petition filed under par.
10 (a) by a provider of cable ~~television~~ service for alternative telecommunications utility
11 status in a particular geographical area as not being in the public interest if basic
12 local exchange service is provided in the same geographical area by any of the
13 following:

14 **SECTION 49.** 196.203 (3) (b) 2. of the statutes is amended to read:

15 196.203 **(3)** (b) 2. Subject to par. (c), a telecommunications utility with 50,000
16 or less access lines in use in this state which also provides cable ~~television~~ service in
17 that geographical area, if provision of cable ~~television~~ service began after September
18 1, 1994.

19 **SECTION 50.** 196.203 (3) (c) of the statutes is amended to read:

20 196.203 **(3)** (c) Paragraph (b) 2. shall not apply if the telecommunications
21 utility's provision of cable ~~television~~ service is limited to the provision of satellite
22 cable programming, as defined in s. 943.47 (1) (b).

23 **SECTION 51.** 196.203 (3) (d) of the statutes is amended to read:

24 196.203 **(3)** (d) Section 196.50 (1) (b) applies to an alternative
25 telecommunications utility except for a provider of cable ~~television~~ service.

ENGROSSED ASSEMBLY BILL 207

SECTION 52

INSERT 66-19 (cont'd)

1 SECTION 52. 196.203 (3) (e) 1. (intro.) of the statutes is amended to read:

2 196.203 (3) (e) 1. (intro.) If a provider of cable television service files a petition
3 under par. (a) for alternative telecommunications status to offer local exchange
4 service, as defined in s. 196.50 (1) (b) 1., in a geographical area served by a
5 telecommunications utility with less than 50,000 access lines in use in this state on
6 September 1, 1994, or at any time thereafter, the commission may not deny the
7 petition as not being in the public interest and shall do any of the following:

8 SECTION 53. 196.204 (7) of the statutes is repealed. ✓

9 SECTION 54. 196.50 (1) (b) 2. e. of the statutes is amended to read:

10 196.50 (1) (b) 2. e. The holder of the permit and the applicant are both providers
11 of cable television video service, if the holder's provision of cable television video
12 service began after September 1, 1994. This subd. 2. e. does not apply if the holder's
13 provision of cable television service is limited to the provision of satellite cable
14 programming, as defined in s. 943.47 (1) (b).

15 SECTION 55. 196.50 (1) (c) of the statutes is amended to read:

16 196.50 (1) (c) Any provision in an agreement or municipal franchise that
17 prohibits entry into the telecommunications or cable television video services market
18 after September 1, 1994, is void. Paragraph (b) and this paragraph do not invalidate
19 an ordinance enacted under s. 66.0419 which requires a provider of cable television
20 services to obtain a franchise before offering those services.

21 SECTION 56. 196.85 (1m) (b) of the statutes is amended to read:

22 196.85 (1m) (b) For the purpose of direct assessment under sub. (1) of expenses
23 incurred by the commission in connection with its activities under s. 196.04 (4), the
24 term "public utility" includes a cable operator, as defined in s. 66.0419 (2) (b) video
25 service provider.

END OF INSERT
66-19

ENGROSSED ASSEMBLY BILL 207

SECTION 57

INSERT 67-2

1 **SECTION 57.** 196.85 (1m) (d) of the statutes is created to read:

2 196.85 **(1m)** (d) For the purpose of direct assessment under sub. (1) of expenses
3 incurred by the commission in connection with its activities under s. 182.017, the
4 term "public utility" includes a company, as defined in s. 182.017 (1g) (b).

5 **SECTION 58.** 943.46 (title) of the statutes is amended to read:

6 **943.46 (title) Theft of cable television video service.**

7 **SECTION 59.** 943.46 (1) (a) of the statutes is renumbered 943.46 (1) (c) and
8 amended to read:

9 943.46 **(1)** (c) "Cable television Video service" has the meaning given in s.
10 196.01 (1p). "Cable television 66.0420 (2) (y), except that "video service" does not
11 include signals received by privately owned antennas that are not connected to a
12 cable television system video service network whether or not the same signals are
13 provided by a cable television company video service provider.

14 **SECTION 60.** 943.46 (1) (d) of the statutes is created to read:

15 943.46 **(1)** (d) "Video service network" has the meaning given in s. 66.0420 (2)
16 (zb). **z**

17 **SECTION 61.** 943.46 (1) (e) of the statutes is created to read:

18 943.46 **(1)** (e) "Video service provider" has the meaning given in s. 66.0420 (2)
19 (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (h).

20 **SECTION 62.** 943.46 (2) (a) of the statutes is amended to read:

21 943.46 **(2)** (a) Obtain or attempt to obtain cable television video service from
22 a company provider by trick, artifice, deception, use of an illegal device or illegal
23 decoder or other fraudulent means with the intent to deprive that company provider
24 of any or all lawful compensation for rendering each type of service obtained. The
25 intent required for a violation of this paragraph may be inferred from the presence

(2)
means a municipally regulated cable operator, as defined in
s. 66.0420(2)(o), or a video service franchisee, as defined in s. 66.0420(2)(y)

ENGROSSED ASSEMBLY BILL 207

SECTION 62

(INSERT 67-2 (cont'd)):

1 on the property and in the actual possession of the defendant of a device not
2 authorized by the ~~cable television company~~ video service provider, the major purpose
3 of which is to permit reception of ~~cable television~~ video services without payment.
4 This inference is rebutted if the defendant demonstrates that he or she purchased
5 that device for a legitimate use.

6 **SECTION 63.** 943.46 (2) (b) of the statutes is amended to read:

7 943.46 (2) (b) Give technical assistance or instruction to any person in
8 obtaining or attempting to obtain any ~~cable television~~ video service without payment
9 of all lawful compensation to the ~~company~~ provider providing that service. This
10 paragraph does not apply if the defendant demonstrates that the technical
11 assistance or instruction was given or the installation of the connection, descrambler
12 or receiving device was for a legitimate use.

13 **SECTION 64.** 943.46 (2) (c) of the statutes is amended to read:

14 943.46 (2) (c) Make or maintain a connection, whether physical, electrical,
15 mechanical, acoustical or by other means, with any cables, wires, components or
16 other devices used for the distribution of ~~cable television~~ video services for the
17 purpose of distributing ~~cable television~~ video service to any other dwelling unit
18 without authority from a ~~cable television company~~ video service provider.

19 **SECTION 65.** 943.46 (2) (d) of the statutes is amended to read:

20 943.46 (2) (d) Make or maintain a connection, whether physical, electrical,
21 mechanical, acoustical or by other means, with any cables, wires, components or
22 other devices used for the distribution of ~~cable television~~ video services for the
23 purpose of obtaining ~~cable television~~ video service without payment of all lawful
24 compensation to the ~~company~~ provider providing that service. The intent required
25 for a violation of this paragraph may be inferred from proof that the ~~cable~~ video

ENGROSSED ASSEMBLY BILL 207

SECTION 65

INSEAT 67-2 (cont'd).

1 service to the defendant's residence or business was connected under a service
2 agreement with the defendant and has been disconnected by the ~~cable television~~
3 ~~company~~ video service provider and that thereafter there exists in fact a connection
4 to the ~~cable system~~ video service network at the defendant's residence or business.

5 SECTION 66. 943.46 (2) (e) of the statutes is amended to read:

6 943.46 (2) (e) Make or maintain any modification or alteration to any device
7 installed with the authorization of a ~~cable television company~~ video service provider
8 for the purpose of intercepting or receiving any program or other service carried by
9 that ~~company~~ provider which that person is not authorized by that ~~company~~ provider
10 to receive. The intent required for a violation of this paragraph may be inferred from
11 proof that, as a matter of standard procedure, the ~~cable television company~~ video
12 service provider places written warning labels on its converters or decoders
13 explaining that tampering with the device is a violation of law and the converter or
14 decoder is found to have been tampered with, altered or modified so as to allow the
15 reception or interception of programming carried by the ~~cable television company~~
16 video service provider without authority to do so. The trier of fact may also infer that
17 a converter or decoder has been altered or modified from proof that the ~~cable~~
18 ~~television company~~ video service provider, as a matter of standard procedure, seals
19 the converters or decoders with a label or mechanical device, that the seal was shown
20 to the customer upon delivery of the decoder and that the seal has been removed or
21 broken. The inferences under this paragraph are rebutted if the ~~cable television~~
22 ~~company~~ video service provider cannot demonstrate that the intact seal was shown
23 to the customer.

24 SECTION 67. 943.46 (2) (f) of the statutes is amended to read:

ENGROSSED ASSEMBLY BILL 207

SECTION 67

INSERT 67-2 (cont'd).

1 943.46 (2) (f) Possess without authority any device or printed circuit board
2 designed to receive from a ~~cable television system~~ video service network any cable
3 television video programming or services offered for sale over that ~~cable television~~
4 system video service network, whether or not the programming or services are
5 encoded, filtered, scrambled or otherwise made unintelligible, or perform or
6 facilitate the performance of any of the acts under pars. (a) to (e) with the intent that
7 that device or printed circuit be used to receive that ~~cable television company's~~ video
8 service provider's services without payment. Intent to violate this paragraph for
9 direct or indirect commercial advantage or private financial gain may be inferred
10 from proof of the existence on the property and in the actual possession of the
11 defendant of a device if the totality of circumstances, including quantities or
12 volumes, indicates possession for resale.

13 **SECTION 68.** 943.46 (2) (g) of the statutes is amended to read:

14 943.46 (2) (g) Manufacture, import into this state, distribute, publish,
15 advertise, sell, lease or offer for sale or lease any device, printed circuit board or any
16 plan or kit for a device or for a printed circuit designed to receive the ~~cable television~~
17 video programming or services offered for sale over a ~~cable television system~~ video
18 service network from a ~~cable television system~~ video service network, whether or not
19 the programming or services are encoded, filtered, scrambled or otherwise made
20 unintelligible, with the intent that that device, printed circuit, plan or kit be used for
21 the reception of that ~~company's~~ provider's services without payment. The intent
22 required for a violation of this paragraph may be inferred from proof that the
23 defendant has sold, leased or offered for sale or lease any device, printed circuit
24 board, plan or kit for a device or for a printed circuit board in violation of this
25 paragraph and during the course of the transaction for sale or lease the defendant

ENGROSSED ASSEMBLY BILL 207

SECTION 68

INSERT 67-2 (cont'd)

1 expressly states or implies to the buyer that the product will enable the buyer to
2 obtain ~~cable television~~ video service without charge.

3 SECTION 69. 943.46 (5) of the statutes is amended to read:

4 943.46 (5) EXCEPTION. This section does not affect the use by a person of cable
5 ~~television~~ video services if the services have been paid for and the use is exclusive to
6 the person's dwelling unit. This subsection does not prohibit a board or council of any
7 city, village or town from specifying the number and manner of installation of outlets
8 used by any such person for ~~cable television~~ video services and does not prohibit a
9 ~~cable television company~~ video service provider, in any written contract with a
10 subscriber, from requiring the company's provider's approval for any increase in the
11 number of those outlets used.

12 (END)

END of INSERT
67-2

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0128/1dn
MDK:cjs:pg

November 5, 2007

Sen. Vinehout:

This version incorporates the changes requested at meetings with your staff and David Lovell of the Legislative Council. Please note the following:

1. At the meetings, we discussed adding a cross reference to the description of "access" in s. 66.0420 (9) (b) to ss. 66.0420 (3) (b) 3. and 100.209 (11) (c) and (d). However, upon further reflection, I don't think that a cross reference works in those sections. Nevertheless, I think my revisions achieve your intent.
2. The last sentence of s. 66.0420 (8) (a) is my attempt to resolve an issue that we did not resolve at the meetings. Is it okay?
3. In adding s. 66.0420 (8) (d) of engrossed AB 207 to this substitute amendment, note that s. 66.0420 (9) (b) in this substitute amendment corresponds to s. 66.0420 (8) (d) 1. of engrossed AB 207, and s. 66.0420 (9) (f) of this substitute amendment corresponds to s. 66.0420 (8) (d) 2. of engrossed AB 207.
4. In s. 66.0420 (10), I created exceptions for the provisions of s. 66.0420 (9) that are administered by DATCP, rather than the PSC (i.e., s. 66.0420 (9) (c) and (d)).
5. Rather than create a definition for "exchange," I refer to "telephone service exchange area" in ss. 66.0420 (4) (b) 1. b. and 100.209 (12) (b).
6. In the definition of "normal business hours" in s. 100.209 (1) (e), I deleted the sentence requiring the hours to include some evening hours at least one night per week and some weekend hours. In the meetings, we discussed moving this substantive requirement out of the definition, but I couldn't find an appropriate place for it. Also, the requirement for "some" hours is not very definite, and I don't think that you lose anything by not including it.
7. I deleted "rate increases" from the definition of "normal operating conditions" because I don't think it fits well under that definition.
8. In s. 100.209 (9) (e) 1., I changed "130 seconds" to "30 seconds." The proposal that you provided refers to 130 seconds, but the Illinois law itself refers to 30 seconds. I assume you want to follow the Illinois law on this point.
9. I did not make any changes to s. 134.43. Let me know if you want to address that statute.

10. I made terminology changes in other statutes (e.g., ch. 196 and s. 943.46) that are similar to the terminology changes made in engrossed AB 207. I think my changes are consistent with your intent, but you may want to check them.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: Nilsestuen, Joel
Sent: Monday, November 05, 2007 11:21 AM
To: Kunkel, Mark
Subject: FW: sub language from DATCP

Joel Nilsestuen
Office of Sen. Kathleen Vinehout

PO Box 7882
Madison, WI 53707-7882

(608) 266-8546
Joel.Nilsestuen@legis.wisconsin.gov

From: Jenkins, Janet A - DATCP [mailto:Janet.Jenkins@Wisconsin.gov]
Sent: Monday, November 05, 2007 11:15 AM
To: Nilsestuen, Joel
Subject: RE: sub language from DATCP

Works for me. Thanks, Joel.

Janet

From: Nilsestuen, Joel [mailto:Joel.Nilsestuen@legis.wisconsin.gov]
Sent: Monday, November 05, 2007 11:01 AM
To: Jenkins, Janet A - DATCP
Subject: FW: sub language from DATCP

Does the change below work for you?

Joel Nilsestuen
Office of Sen. Kathleen Vinehout

PO Box 7882
Madison, WI 53707-7882

(608) 266-8546
Joel.Nilsestuen@legis.wisconsin.gov

From: Kunkel, Mark

11/06/2007

Sent: Monday, November 05, 2007 10:59 AM
To: Nilsestuen, Joel
Subject: RE: sub language from DATCP

I had our DATCP drafter look at the language, and he would revise the language regarding "issue a special order" to say "issue a special order ***under s. 93.18.***" (Similar language is found in s. 100.201 (9) (b)).

I suspect DATCP would be okay with that, but you might want to run it by them.

-- Mark

From: Nilsestuen, Joel
Sent: Monday, November 05, 2007 10:52 AM
To: Kunkel, Mark
Subject: RE: sub language from DATCP

Sure, thanks Mark.

Joel Nilsestuen
Office of Sen. Kathleen Vinehout

PO Box 7882
Madison, WI 53707-7882

(608) 266-8546
Joel.Nilsestuen@legis.wisconsin.gov

From: Kunkel, Mark
Sent: Monday, November 05, 2007 10:52 AM
To: Nilsestuen, Joel
Cc: Lovell, David
Subject: RE: sub language from DATCP

The new version (/1) is being edited, so I think it will be less disruptive to our editors and word processors if I wait and add the language below to a subsequent version (/2).

The /1 will be done before the end of day (probably late afternoon). I can have a /2 by tomorrow morning. Also, we could fix any errors that people find in the /1 and address them in the /2.

Is that okay?

From: Nilsestuen, Joel
Sent: Monday, November 05, 2007 10:43 AM
To: Kunkel, Mark
Subject: sub language from DATCP

Mark,

Plz see attachment for requested input from DATCP on CP enforcement for the sub.

11/06/2007

Joel Nilsestuen
Office of Sen. Kathleen Vinehout

PO Box 7882
Madison, WI 53707-7882

(608) 266-8546
Joel.Nilsestuen@legis.wisconsin.gov

From: Vinehout, Kathleen
Sent: Sunday, November 04, 2007 9:52 AM
To: Nilsestuen, Joel
Subject: FW: Joel - sub language from DATCP

This was in my email box. I am forwarding it to make sure you received it.

Thanks for all your work!!

Kathleen

PS An idea - when you find something in the bill that really upsets you, think of how we can weave it into a floor speech.

From: Jenkins, Janet A - DATCP [mailto:Janet.Jenkins@Wisconsin.gov]
Sent: Fri 11/2/2007 3:46 PM
To: Vinehout, Kathleen
Subject: For Joel

Joel, you're not in the global list so I'm sending it to Sen. Vinehout's general address. It's attached.

<<Notes for Proposed Sen. Substitute Amendment 11-2-07.doc>>

Janet

- Section 19 – Enforcement

- Change (19) (a) to (19) (b) and re-letter all subsequent provisions of Sec, (19)
- Create new Sec. (19)(a) to read as follows:

“(19) (a) The department may:

1. Exercise its authority under 93.14, 93.15, and 93.16 to investigate violations of this section;
2. Commence an action in the name of the state to restrain by temporary injunction a violation of this section. Before entry of a final judgment, the court may make any necessary orders to restore to a person any pecuniary loss suffered by the person because of the violation.
3. Commence an action in the name of the state to recover a forfeiture to the state of not less than \$100 nor more than \$10,000 for each violation of this section.
4. After public hearing, issue a special order against a cable or video provider enjoining the provider from employing practices that violate this section and requiring the provider to employ practices or take actions that are determined by the department to be in compliance with this section.

NOTE: The current bill as drafted gives the state enforcement authority, but doesn't say what that is. (Under Ill law, it does provide that AG (who does enforcement there) can also enforce under Ill. Public Utilities Act and the Ill. Consumer Fraud Deceptive Business Practices Act. The language I'm submitting is our substitute for it.

under
S. 93.18

Kunkel, Mark

From: Nilsestuen, Joel
Sent: Wednesday, November 07, 2007 8:29 AM
To: Lovell, David
Cc: Kunkel, Mark; Stolzenberg, John; Sen.Vinehout; Kleinschmidt, Linda; Haber, Darcy
Subject: RE: URGENT! IMMEDIATE RESPONSE REQUIRED!

Please include the separate penalties for the privacy violations.

Joel Nilsestuen
Office of Sen. Kathleen Vinehout

PO Box 7882
Madison, WI 53707-7882

(608) 266-8546
Joel.Nilsestuen@legis.wisconsin.gov

From: Lovell, David
Sent: Tuesday, November 06, 2007 7:06 PM
To: Nilsestuen, Joel
Cc: Kunkel, Mark; Stolzenberg, John; Sen.Vinehout; Kleinschmidt, Linda; Haber, Darcy
Subject: URGENT! IMMEDIATE RESPONSE REQUIRED!

Joel,

No, this is not spam, this really does require an immediate response. I am copying everyone in your office, so that they will help make sure you know of the urgency of this message.

So, what's the big deal?

I just noticed that there is a great difference in current Wisconsin law between the penalty for violation of the customer service standards (up to \$1,000 on first offense and up to \$10,000 on subsequent offenses) and for violations of the privacy statute (up to \$50,000 on first offense and up to \$100,000 on subsequent offenses).

This afternoon, we decided to set penalties for all of it at not less than \$100 nor more than \$10,000, and decided not to try to distinguish between any of the individual violations. However, you may want to keep the distinction in current law for privacy violations. The draft would say something like:

A person who violates any provision of this section, except sub. (17), shall forfeit not less than \$100 nor more than \$10,000. A person who violates sub. (17) shall forfeit not more than \$50,000 for the first offense and not more than \$100,000 for the second or subsequent offense.

If you want to make this change, **contact Mark right away!**

If you do **not** want to make this change, **contact Mark right away!**

Mark needs to know either way, in order to get the draft to you as soon as possible -- so don't wait! Call now! LRB operators are standing by to take your call!

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff

608/266-1537